

Scott L. Campbell, ISB No. 2251
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Boulevard, 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone: (208) 345-2000
Facsimile: (208) 385-5384
18936.4

RECEIVED
FILED
2002 MAR 15 AM 11:46
PUBLIC
UTILITIES COMMISSION

Attorney for Idaho Dairymen's Association

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE
INVESTIGATION OF THE CONTINUED
REASONABLENESS OF CURRENT SIZE
LIMITATIONS FOR PURPA PUBLISHED
RATE ELIGIBILITY (i.e. 1 MW) AND
RESTRICTIONS ON CONTRACT
LENGTH (i.e., 5 YEARS)

Case No. **GNR-E-02-01**

**WRITTEN COMMENTS OF THE IDAHO
DAIRYMEN'S ASSOCIATION**

Introduction

The Idaho Dairymen's Association (hereinafter "the Association"), through its counsel, Scott L. Campbell, of Moffatt, Thomas, Barrett, Rock, and Fields, Chtd., hereby submits these comments in Docket No. GNR-E-02-01.

Introduction

The Association is very interested in the Commission's review of Order No. 26578, in Case No. IPC-E-95-9 (September 4, 1996), particularly if the review results in an

expansion of the contract length and the size limitation for PURPA published rate eligibility for qualifying facilities (hereinafter "QFs"). The Association's interest in this matter stems from its desire to improve the regulatory environment to encourage development of anaerobic digester technology to utilize dairy waste by-products for methane gas production to power combustion turbines for electric generation.

This type of QF will provide two substantial benefits. First, it will provide an additional source of electrical energy as a by-product of a substantial agricultural sector of the State's economy. Idaho dairy farmers generated approximately \$1 billion in farm gate income from milk production in 2001, making dairy production the number one agriculture sector in Idaho, ahead of beef cattle production and potatoes. Second, and just as important to the Association, encouragement of anaerobic digestion QFs will help the industry solve a persistent negative side effect of normal dairy operations: odor.

PURPOSE OF PURPA

The Public Utilities Regulatory Policies Act of 1979 (hereinafter "PURPA") was enacted to help the United States achieve energy independence. Now, more than ever, that goal should be fostered by the Commission. Additionally, PURPA was enacted to allow for increased efficiency in the use of resources and increased emphasis on using renewable resources for electrical generation. These positive public purposes have stagnated in Idaho because of the overly restrictive limitations on contract length and size limitations for QFs contained in Commission Order No. 26578.

ONE MEGAWATT LIMIT FOR QF CONTRACTS

The Commission's decision to limit the size of QF contracts to no more than one megawatt was not reasonable, given the impact of that decision on QF development in Idaho over the last five years. Not only has the size limitation made project development uneconomic due to economy of scale considerations, but it has also artificially restricted innovation.

FIVE YEAR CONTRACT TERM LIMITATION

The limitation on size of QFs negatively impacts design and economic feasibility. However, coupling the size limitation with the five year contract term limitation virtually destroys any realistic possibilities for QFs to satisfy any reasonable return on investment economic analysis. It is ironic that the Commission would consider retaining these disincentives to future QF development, while at the same time allowing Idaho Power Company to purchase massive quantities of power from Ida-West, the wholly owned subsidiary of Ida-Corp, the parent company of Idaho Power Company. The inconsistent treatment of QFs under the Commission Order No. 26578 contrasted with the Ida-West arrangements cries out for correction. The Mountain Home and Garnet projects are merely the latest examples of this inconsistent treatment.

CONCLUSION

The investor owned utilities have never liked PURPA. Their reasons are too numerous and too tiresome to repeat here. Notwithstanding their distaste for the Act, it is still the law. The Commission should modify its Order No. 26578 to allow the provisions of PURPA to become effective again in Idaho. Without substantial modification of the size limitation and the contract term limitation, PURPA will be a continuing irrelevancy in Idaho. The purpose of the Act will be ignored and the innovations and positive developments which would result from a

vigorous QF segment of the energy industry in this State will be lost to the rate paying public. The regulated monopolies of the investor owned utilities should not be allowed to ignore the intent of Congress in enacting PURPA by virtue of the Commission's unrealistic restrictions on size and contract term.

Respectfully submitted, this 15th day of March 2002.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By Scott L. Campbell
Scott L. Campbell - Of the Firm
Attorney for Idaho Dairyman's Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2002, I caused to be served a true copy of the foregoing **WRITTEN COMMENTS OF THE IDAHO DAIRYMEN'S ASSOCIATION** by the method indicated below.

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Street Address for Hand Delivery
472 W. Washington St.
Boise, ID 83702-5983

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Robert J. Laferty
Blair Strong
Avista Corporation
PO Box 3727
Spokane, WA 99220

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Gregory N. Duvall
Jim Fell
PacificCorp
424 Public Service Building
920 SW 6th Avenue
Portland, OR 97204-1239

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

John Ericksson
Utah Power & Light
1407 West North Temple
Salt Lake City, UT 84140

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Barton L. Kline, Senior Attorney
Idaho Power Company
PO Box 70
Boise, ID 83707-0070
Street Address for Hand Delivery
1221 W. Idaho Street
Boise, ID 83702

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Governor Kempthorne
700 West Jefferson, Second Floor
PO Box 83720
Boise, ID 83720-0034

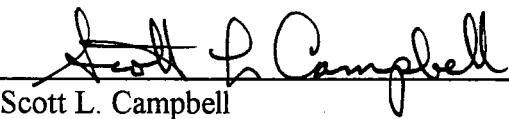
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Senator Robert Lee
Statehouse
Boise, ID 83720

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Representative Bert Stevenson
Statehouse
Boise, ID 83720

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Scott L. Campbell